

# **PERSONNEL RULES FOR CITIZENS CARE AND REHABILITATION CENTER AND MONTEVUE ASSISTED LIVING**

## **CHAPTER I**

### **GENERAL PROVISIONS**

#### **Section 1 - Authority**

These Personnel Rules do not limit the authority of the Board of County Commissioners or the Board of Trustees of Citizens Care and Rehabilitation Center and Montevue Assisted Living to regulate the competent and efficient operation and management of Citizens Care and Rehabilitation Center (Citizens or CCRC) and Montevue Assisted Living (Montevue or MAL).

#### **Section 2 - Purpose**

The purpose of these rules is to establish procedures which will serve as a guide to administer action concerning the various personnel activities and transactions. They are intended to provide the most reasonable methods whereby the aims of the personnel program can be carried out.

#### **Section 3 - Positions Covered**

These rules shall cover all employees who are appointed or paid on an hourly, weekly, monthly, or yearly rate except as otherwise provided herein (refer to Chapter IV).

#### **Section 4 - Funding of Benefits**

All benefits are subject to the allocation of funds by the Board of County Commissioners, and may be revised, restricted or discontinued in whole or in part at any time.

#### **Section 5 - Administration**

These rules shall be administered by the Director of Human Resources under the direction of the Board of County Commissioners.

#### **Section 6 - Interpretation**

These rules are intended to cover most personnel situations and actions for which the Board of County Commissioners or the Board of Trustees is responsible. Those personnel situations and actions not specifically covered shall be handled by the Director of Human Resources in keeping with the intent and the objectives of these rules.

#### **Section 7 - Authorized Representative**

When an action is required by a person occupying any position referred to herein, in the absence of such person, his/her duly authorized representative may act. The term "Division Director" as used in these Personnel Rules where appropriate includes the Executive Director of CCRC/Montevue, the Administrator of Citizens Care and Rehabilitation Center, the Administrator of Montevue Assisted Living, Division Directors, Department Heads, Agency Directors or the designee of any of these.

#### **Section 8 - Publication and Distribution**

These rules shall be published in booklet form and be made available to all Citizens and Montevue employees and their representatives.

#### **Section 9 - Administrators**

By separate resolution (Resolution No. 07-34, as amended from time to time and most recently by Resolution No. 11-08), the Executive Director of CCRC/Montevue, the Administrator of Citizens Care and Rehabilitation Center and the Administrator of Montevue Assisted Living are not subject to Chapters VI, VII and IX of these rules.

## Chapter I - General Provisions (continued)

### Section 10 – Employment of Relatives

An employee's relatives, as defined in this section, will not be employed under any of the following circumstances:

- A. Where one of the parties would have authority (or practical power) to supervise, appoint, remove, or discipline the other;
- B. Where one of the parties would be directly responsible for auditing or evaluating the work of the other; or
- C. Where other circumstances might lead to potential conflict among the parties or conflict between the interest of one or both parties and the best interests of the County.

"Relatives" include an employee's parent, in-laws, child, dependent, spouse, brother and sister.

The effective date of this rule is July 1, 2005, and employees in jobs with relationships that conflict with this rule on the effective date will be permitted to continue working in those jobs and be grandfathered from this change. If the relationship between two employees changes after the effective date and puts them in one of the above listed circumstances, a decision about employment status will be made on a case-by-case basis.

### Section 11 - Intra-Departmental Rules

- A. Because of the varied nature of the work performed and services provided, it may be necessary for a Division Director to establish specific intra-departmental rules necessary for the operation of that department and which may apply only to that department.
- B. Such intra-departmental rules may be prepared and implemented by a Division Director but such rules must be in writing. A copy of such rules must be distributed to employees of the department.
- C. Intra-departmental rules may not conflict with these Personnel Rules. If there is a conflict, these Personnel Rules prevail.

### Section 12 – Board of Trustees Involvement

Except as allowed in Chapter IX or where the Board of Trustees is the direct appointing authority (i.e. employees under their direct supervision), the Board will not intervene in the hiring or promotional process, discipline or dismissal of employees covered by these rules.

### Section 13 – "Division" Defined

As used in these rules, "Division" includes both CCRC and Montevue.

## CHAPTER II

### CLASSIFICATION PLAN

#### **Section 1 - Definitions**

- A. A position is a group of currently assigned duties and responsibilities requiring full-time or part-time employment of one person. A position may be occupied or vacant.
- B. A class is a group of positions (or one position) that: (1) has similar duties and responsibilities; (2) requires like qualifications; and (3) can be equitably compensated by the same salary range.
- C. A class title is the official designation of a position as stated in the class specification. It shall be used on all Human Resources records and actions.

#### **Section 2 - Administration of the Classification Plan**

The Director of Human Resources, under the direction of the Board of County Commissioners, is responsible for administering the Classification Plan. It is his/her duty to examine the nature of the positions as they are created and to allocate them to the existing class or create new classes; to make such changes in the Classification Plan as are made necessary by changes in the duties and responsibilities of existing positions; and, periodically, to review the entire Classification Plan and recommend appropriate changes in allocations or in the Classification Plan.

#### **Section 3 - Classification of New Positions**

Whenever a new position is established or duties of an old position change, the Division Director shall submit in writing a comprehensive job description detailing the duties of such a position. The Director of Human Resources, with the approval of the County Manager, shall classify the position to one of the classes in the Classification Plan. If a suitable class does not exist, he/she shall recommend the establishment of a new class which must be approved by the County Manager, and then classify the position to it.

#### **Section 4 - Classification Appeals**

If an employee has facts which indicate that his/her position is improperly classified, the employee may request the Division Director to review the classification of the position and submit a request for reclassification. The Division Director may submit such a request in writing to the County Manager, through the Director of Human Resources, with a statement of justification. Such classifications shall continue in force until changed under the provisions of these rules.

#### **Section 5 - Maintenance of Plan**

- A. Each time a new position is proposed to be established, a position description shall be completed by the Division Director and submitted to the Director of Human Resources for review. The Director of Human Resources shall submit his/her findings and recommendations to the County Manager for approval.
- B. Each time a department or division is reorganized, position descriptions for all affected employees shall be submitted to the Director of Human Resources for review and approval.
- C. The Director of Human Resources may require departments/divisions or employees to submit position descriptions ~~on a periodic basis or at any time there is reason to believe that there has been a change in the duties and responsibilities of one or more positions.~~
- D. Each time a new class is established, a class specification shall be written and incorporated in the existing Plan. The class title shall be added to the Classification Plan. Likewise, an abolished class shall be deleted from the Classification Plan by removing the class specification and eliminating the class title.
- E. Class specification descriptions shall be distributed to all Division Directors and be available upon request to employees and their representatives.

#### **Section 6 - Interpretation of Class Specifications**

The class specifications are descriptive and not restrictive. They are intended to indicate the kinds of positions which shall be allocated to the classes established. In a series of classes, the specifications for all classes should be reviewed as a unit.

**Section 7 - Non-classified Positions and Employees**

- A. Due to the nature and conditions involving certain positions throughout the County government, it may be impractical to establish these positions as part of the regular Classification Plan as they apply to compensation and fringe benefits. These positions shall be known as non-classified positions and persons filling these positions shall be known as non-classified employees. Examples of such non-classified positions and employees may be persons employed under a "work-study" or a "seasonal jobs" program, part-time employees, and emergency employees.
- B. The Director of Human Resources shall maintain a description of "non-classified" positions as an addendum to the Classification Plan.
- C. Non-classified employees shall be required to observe all Personnel Rules relating to employment the same as classified employees.

**Section 8 - Official Copy of the Classification Plan**

The Director of Human Resources shall be responsible for maintaining an official copy of the Classification Plan. A copy of the official plan shall be available for inspection by the public under reasonable conditions during business hours.

## CHAPTER III

### COMPENSATION PLAN

#### Section 1 - Composition

The salary schedules as adopted by the Board of County Commissioners as a part of the annual budgeting process shall constitute the grades and rates of pay for all classifications in the County Classification Plan and represent the rates of pay applicable to the positions for annual full-time employment based on the standard work week for those positions.

- A. The rates of pay for "non-classified positions" are not a part of the Compensation Plan since these may vary between the minimum set by the Fair Labor Standards Act and the minimum of the Compensation Plan.
- B. The rates of pay for "non-classified positions" shall be set by the Board of County Commissioners as part of the annual budgeting process.

#### Section 2 - New Appointees

A. Generally, a new employee shall be paid the minimum rate of pay for the class. Exceptions may be granted upon the prior approval of the Director of Human Resources, County Manager or Board of County Commissioners in the following cases:

- 1. The minimum rate for each class is based upon the requirement that a new employee meets the minimum qualifications stated in the class specifications. If it becomes necessary to appoint a new employee of lesser qualifications, he/she should begin at one or possibly two grades below the minimum rate of the class.
- 2. If a new employee more than meets the minimum qualifications, and will not accept appointment at the minimum rate of the class, he/she may be appointed at a higher rate of pay. This practice should be used in emergencies only. Cases should be thoroughly analyzed and measured against objective standards. In addition, every effort should first be made to recruit the best qualified employee who will accept appointment at the minimum rate of the class.

B. All new employees are on probation during the first six (6) months of employment. Termination may occur at any time during the probationary period. The probationary period may be extended for an additional time, not to exceed six (6) months, upon request of the Division Director and approval of the Director of Human Resources.

#### Section 3 - Promotions

- A. When an employee is promoted to a position in a higher grade, the employee's current rate of pay shall be increased by 10% for the first grade, 7% for the second grade, and 3% for any additional grades, if applicable, to a maximum promotion increase of 20%, or to the minimum of the new grade, whichever is higher. For example, if an employee is promoted from grade 8 to grade 9, the rate of pay would increase by 10% or to the minimum of the new grade, whichever is higher. If an employee is promoted from grade 8 to grade 12, the rate of pay would increase 20% (10% for the first grade, 7% for the second grade, and 3% for the additional grades) or to the minimum of the new grade, whichever is higher. However, the new rate of pay cannot exceed the maximum of the new grade.
- B. Whenever possible, regular employees working for Frederick County shall be considered for promotion for positions which become available. ~~Outside applicants will be considered thereafter.~~

#### Section 4 - Upgrades

When an employee is promoted to a position in a higher grade due to meeting the requirements of service time, additional education and training, and satisfactory performance, these promotions shall be considered an upgrade. The employee's current rate of pay will be increased by 7.0% of that rate of pay, or will be increased to the minimum rate for the higher grade, whichever is higher.

#### Section 5 - Acting Capacity Pay

When an employee is temporarily assigned to perform duties of a position in a higher grade, the employee's current rate of pay shall be increased by 10% for the first grade, 7% for the second grade, and 3% for any additional grades, if applicable, to a maximum increase of 20%, or to the minimum of the new grade, whichever is higher. (See examples in Section 3A) ~~This increase shall apply only to those temporary assignments which are to be at least thirty (30) days in duration and shall commence with the first full day of such employment.~~ At the conclusion of the acting capacity assignment, the employee will return to the position from which he/she was assigned and to the rate of pay in effect prior to the assignment. The previous rate of pay will be adjusted to reflect annual increases and economic adjustments, if applicable. If an employee is promoted to the position after serving in an acting capacity, the employee will retain the rate of pay in force while serving in an acting capacity. Acting capacity compensation shall be authorized by the Division Director and the Director of Human Resources.

### Section 6 - Demotions

When an employee is demoted to a position classified in a lower pay grade, or when an employee applies for a position classified in a lower pay grade and is approved, the employee shall be paid at a rate within the approved range for the new position in the lower pay grade.

- A. Involuntary Demotion: In the case of a demotion for disciplinary reasons, the employee's current rate of pay will be reduced by the greater of 7% of that rate of pay for each reduction in grade up to a maximum of 14%, or the amount necessary to bring the rate to the maximum of the lower pay grade range. The new salary cannot fall below the minimum or above the maximum of the new grade. (Refer to Chapter VI, Section 3)
- B. Voluntary Demotion: In the case of a voluntary demotion, the employee's current rate of pay shall be reduced by the greater of 3.5% of that rate of pay for each reduction of grade to a maximum of 7%, or the amount necessary to bring the rate to the maximum of the lower pay grade range. However, if the employee is promoted and then voluntarily returns to the position from which he/she was promoted within one year, the employee will return to the rate of pay in effect prior to the promotion. The previous rate of pay will be adjusted to reflect annual increments and economic adjustments received after the promotion date, if any.

### Section 7 - Part-time Employment

Part-time employees will be paid the hourly equivalent of the annual salary assigned to the position for which they are hired.

### Section 8 - Annual Increments

- A. The salary ranges adopted in conjunction with the Compensation Plan provide for annual increments based upon an employee's overall performance ratings, but the implementation of these increases shall be the decision of the Board of County Commissioners during the annual budgeting process. The regular increase consists of the annual increment which is 3.5% of the midpoint of the employees' current grade. In addition, the Board of County Commissioners may determine that an economic adjustment will also be available and will be a part of the regular increase.
- B. Based on the decision of the Board of County Commissioners that an annual increment will be provided, the following shall be the conditions of those to receive increments.
  - 1. Employees employed for an entire fiscal year will be eligible to receive the full increment.
  - 2. Employees who are hired during the fiscal year will be eligible to receive a pro-rated increment based upon 1/12 of the increment for each full month or portion of a month employed during the fiscal year.
  - 3. An employee who has a leave of absence (of any type except Military and Workers' Compensation) for more than ninety (90) calendar days in any fiscal year shall be eligible to receive a pro-rated increment for the number of months actually worked, based upon the formula in Section 8B2 above.

### Section 9 – Overtime

- A. When an employee's actual hours worked exceed 40 hours in one week, any additional hours worked authorized by the Division Director, may be paid at a rate one and one-half times the employee's regular hourly rate.
- B. ~~Overtime pay is calculated differently for many CCRG/Montevue employees, using a fixed work period of fourteen consecutive days instead of the 40 hour work week. Under the Fair Labor Standards Act's "8 and 80" overtime system, these employees are paid an overtime rate one and one-half the employee's regular hourly rate for hours worked authorized by the Division Director in excess of 8 in a workday and 80 in a fourteen-day period.~~
- C. This section only applies to those employees whose positions are designated as non-exempt in the position classification schedule.

### Section 10 - Interpretation

The Director of Human Resources shall be responsible for interpreting the application of the Compensation Plan to pay situations which are not specifically covered by these rules, using the principles expressed herein as a policy guide.

## CHAPTER IV

### TYPES OF EMPLOYEES AND APPLICABLE BENEFITS

#### Section 1 - Regular Employees (Full-time and Part-time)

- A. A regular employee is an individual who has been appointed to a budgeted full-time position approved by the Board of County Commissioners and who has completed the probationary period of employment and thereafter been certified by the Division Director as having achieved a regular employee status. A regular employee is eligible for all benefits provided by the County according to the conditions applicable to the benefit. Benefits may be changed or eliminated at any time.
- B. A regular part-time employee is an individual who has been appointed to a budgeted position approved by the Board of County Commissioners who does not work the standard work week, but is expected to work at least 50% of the hours of a full-time position on a regular basis. After completing the probationary period of employment, the individual is certified by the Division Director as having achieved a regular part-time employee status. A regular part-time employee is eligible for a proportionate percentage of annual and sick leave and paid holidays in relation to the work hours of a full-time position, and all other benefits provided by the County according to the conditions applicable to the benefit. Benefits may be changed or eliminated at any time.
- C. A regular or regular part-time employee employed through a State, Federal or other grant enters employment on the conditions of the funding involved, including the benefits that are afforded by the grant funds, and may be terminated and the position abolished with no obligation assumed by the County once funding is terminated. An employee is not eligible to appeal the loss of employment or benefits due to termination of funding.

#### Section 2 – Other Employee Types

- A. Temporary Employees: A temporary employee is an individual who may be employed to fulfill a vacancy created by emergency, sickness, military leave or other authorized leaves of absences, or County need. He/she is automatically terminated when the person being replaced returns to the position, or the temporary County need has been fulfilled. These employees are not eligible for any fringe benefits other than paid holidays should they occur during the period of employment.
- B. Part-time Employees: A part-time employee is an individual regularly scheduled to work less than 50% of the hours of a full-time position, who may be employed to work on a seasonal basis, a person in a work-study program, or an individual who may be employed to work full or part work weeks on a limited time basis. Part-time employees do not receive any leave or fringe benefits, including paid holidays. Part-time employees are paid only for hours worked.
- C. None of the employees referred to in Section 2 are eligible for the appeal procedure.

#### Section 3 - Probationary Employees

- A. New Employees: Each person, upon initial appointment to any budgeted position approved by the Board of County Commissioners (regardless of the funding source), shall be known as a "probationary employee" until he/she satisfactorily completes a probationary period of six (6) calendar months (see Chapter III, Section 2B). The probationary period shall be regarded as an integral part of the County evaluation process and shall be utilized for ~~closely observing the new employee's work. An employee may be terminated at any time during the probationary period.~~ An employee's probationary period under this category may be extended for an additional time, not to exceed six (6) months, upon request of the Division Director and approval of the Director of Human Resources. A probationary employee is not eligible for the appeal procedure.
- B. Regular Employees: Regular employees who are promoted, demoted or transferred to another position for any reason whatsoever must undergo a probationary period of three (3) months to show that they have proven ability to perform satisfactorily in the new position.
  - 1. An employee in this category may be terminated at any time during the probationary period if his/her work proves unsatisfactory. A probationary employee is not eligible for the appeal procedure.
  - 2. An employee in this type of probationary period shall maintain all County benefits he/she has achieved in the previous position.
  - 3. An employee's probationary period under this category may be extended for an additional time, up to a total of six months, upon request of the Division Director and approval of the Director of Human Resources.

## CHAPTER V

### EMPLOYEE PERFORMANCE EVALUATIONS

#### Section 1 - Objective

The purpose of the employee performance evaluation shall be primarily to inform employees on how well they are doing their work and how they can improve their work performance. It may also serve as a basis for training, demotion, transfer, or dismissal; and for such other purposes as set forth in these regulations. This system is not intended to preclude disciplinary action that may be imposed in accordance with Chapter VI of the Personnel Rules.

#### Section 2 - Period of Evaluation/Process

- A. Regular employees: Three (3) performance review/counseling sessions must be conducted during the evaluation year period.

- The first session - the performance goal setting review will be conducted at the beginning of the evaluation period. At this counseling session, the employee and supervisor will determine the performance factors and goals.

- The second session - the interim performance review will be conducted at least once during the year to discuss performance and note any changes in conditions or assumptions affecting factors and goals.

- The third session - the annual performance review will be held at the end of the performance evaluation period to review performance factors and goals, compare actual performance with factors and goals, and discuss the ratings.

- B. Probationary employees, Transfers, Promotions, Demotions

Evaluations of new employees are to be made no later than three (3) weeks prior to the conclusion of the employee's probationary period on approved evaluation forms.

Evaluations of regular employees who have transferred to a new position for any reason whatsoever shall be made no later than three (3) weeks prior to the conclusion of the probationary period.

If the probationary period has been extended for a regular employee who has transferred to a new position, another evaluation shall be made three (3) weeks prior to the conclusion of the extended probationary period.

#### Section 3 - Evaluators

Evaluations shall be made by the immediate supervisor of each employee and shall be reviewed by the Division Director. An employee in a supervisory position who is leaving the position shall be required to submit performance evaluation forms on all the employees under his/her supervision who are on a probationary status.

#### Section 4 - Ratings/Performance Levels

Each employee will be rated on an overall basis from 1 to 5. The definitions and consequences of these levels follow.

- A. (5) - Significantly and consistently exceeds all standards/expectations: consistently exceeds the highest established standards/expectations (4.5-5.0).
- B. (4) - Exceeds standards/expectations: exceeds normal standards/expectations (3.5-4.49).
- C. (3) - Meets standards/expectations: consistently meets the basic requirements for this position. An employee must achieve an overall rating of "3" (2.5-3.49) to be considered fully satisfactory by meeting all the standards/expectations of his/her position.
- D. (2) - Fails to meet standards/expectations: does not meet all standards/expectations, but indicates potential to function effectively in the position. Employees that receive a final average (overall rating) of "2" (1.5-2.49) will be placed on a conditional employment status based upon the criteria specified in the performance evaluation and will have his/her employment status re-evaluated.



For an employee with conditional status, performance evaluations will be completed every ninety (90) days to verify progress and compliance toward the specific criteria and goals. If the overall rating becomes a "3", the employee will be removed from conditional status. However continued failure to meet standards (overall rating of "2") may result in disciplinary action.

- E. (1) - Unsatisfactory: consistently falls below standards/expectations, and appears unable to function effectively in the position.

Interim evaluations with an overall rating of "1" (1-1.49) or "2" (1.5-2.49) must be reviewed and approved by the Director of Human Resources before review with the employee. This evaluation should clearly state that if specific improvements are not made and the final rating is a "1", the employee will be terminated.

Any annual evaluation with an overall rating of "1" must have been reviewed/approved by the Director of Human Resources prior to the performance review session with the employee.

If the final evaluation rating is a "1", the evaluation is given to the employee and the employee is separated from employment.

### **Section 5 - Review with Employees**

The evaluator shall discuss each performance evaluation with the employee being evaluated, except at the time of separation of an employee from service. The employee has the right to comment as to whether or not he/she agrees with the evaluation.

### **Section 6 - Appeal of Performance Evaluation**

If an employee feels that he/she has not been rated properly, the employee may file a written appeal requesting a hearing to the Division Director or appropriate administrator within five (5) working days of the final review session. This request should set forth the grounds for the appeal.

Upon receipt of the request for a hearing, the Division Director or appropriate administrator shall set a date, time, and place for such hearing not less than five (5) nor more than ten (10) working days after receipt of the request, unless otherwise mutually agreed upon by both parties, and shall notify the employee thereof. After the hearing, the Division Director or appropriate administrator will advise the employee of the decision within five (5) working days.

If the employee still is unsatisfied, the employee may file a written appeal to the Director of Human Resources. The written appeal must be filed within five (5) working days after receipt of the Division Director's decision and must be submitted on the performance evaluation appeals form with documentation of the reasons for the appeal. The written appeal will be reviewed by the Director of Human Resources along with one Division Director. This Division Director will be chosen by the employee from a list of five (5) Division Directors selected by the Director of Human Resources to serve as an appeals committee for a one (1) year period. If the Division Director who held the initial hearing is on the appeals committee, this Division Director cannot be selected by the employee.

The Director of Human Resources and the selected Division Director will review the written appeal and documentation and will render a decision within fifteen (15) working days of receipt of the appeal. The decision of this committee will be final.

Probationary employees may not appeal their performance evaluation, or any part thereof.

### **Section 7 - Performance Evaluations Confidential**

Performance evaluations shall be confidential and shall be made available only to (a) the employee evaluated or his/her representative; (b) his/her supervisor or Division Director; (c) the Director of Human Resources or his/her representative; or (d) the Board of Trustees or the Board's duly authorized representative.

### **Section 8 - Changes in Evaluation**

Once the performance evaluation has been discussed with and given to the employee, and the employee has signed that he/she has read it and had the opportunity to discuss the performance evaluation, no changes can be made to the performance evaluation forms without the approval of both the Division Director and the employee unless the evaluation is modified through the appeal process.

## CHAPTER VI <sup>1</sup>

### DISCIPLINARY ACTION

Except as otherwise provided for by statutes or by resolutions of the Board of County Commissioners, the following provisions shall govern disciplinary actions affecting regular employees.

#### Section 1 - Dismissals

All dismissals are made by the appropriate Division Director through the Director of Human Resources. No dismissal of a regular employee shall take effect until a Division Director gives to such employee a written statement setting forth the reasons therefore and his/her appeal rights and the employee is given an opportunity to respond to the reasons given for the dismissal. An employee who has been dismissed shall be paid for his/her accrued Paid Time Off ("PTO"), annual, holiday, and compensatory leave, and may be denied re-employment rights.

#### Section 2 - Suspensions

A Division Director may, for disciplinary purposes, suspend without pay any employee in his/her department for a length of time he/she considers appropriate, not exceeding five (5) working days. A written statement specifically setting forth reasons for such suspension shall be furnished to the affected employee by the Division Director and a copy filed with the Director of Human Resources. With the approval of the Board of Trustees, an employee may be suspended for a longer period pending the investigation or hearing of any charges made against him/her.

#### Section 3 - Demotions

A Division Director may demote an employee for cause. A written statement of the reasons for any such action shall be furnished to the affected employee by his/her Division Director and a copy filed with the Director of Human Resources at least five (5) working days prior to the proposed effective date of the action. (Refer to Chapter III, Section 6)

#### Section 4 - Reasons for Disciplinary Actions

Listed below are some of the reasons which may be causes for disciplinary action, but disciplinary action is not limited to the offenses listed below:

- A. Failure to perform assigned duties properly
- B. Insubordination (disobedience or refusal)
- C. Chronic or habitual absenteeism or lateness
- D. Being absent without leave
- E. Inefficiency
- F. Unauthorized use of, removal of, theft, or intentional damage to the property of the County or another employee, independent contractor, or customer
- G. Giving false statements to any County official or employee, or the public
- H. Violation of County Ordinances, administrative regulations, intra-departmental rules, or Division or departmental rules, policies or procedures
- ~~I. Use, sale, or possession of illegal drugs and/or alcohol on the job, on County property, or in County vehicles~~
- J. Conviction of violation of law bearing on job performance
- K. Accepting an inducement to perform or fail to perform
- L. Inability to perform assigned duties properly
- M. Refusal to be examined by a County appointed medical professional when so directed
- N. Conduct which is unbecoming of a County employee
- O. Violation of a posted safety, fire prevention, health, or security rule
- P. Falsification of County records (e.g. hours worked)
- Q. A false statement in an employee's application for employment
- R. Abuse of sick leave
- S. Under the influence of an illegal drug, a controlled dangerous substance, or alcohol while on the job
- T. Dishonesty or theft
- U. Endangering the safety of or causing injury to other personnel or the public
- V. Unsatisfactory performance evaluation (See Chapter V, Section 4E)

#### Section 5 - Appeal Procedure

If an employee is eligible for an appeal under these Personnel Rules, refer to Chapter IX - Appeals Procedure.

<sup>1</sup> This Chapter does not apply to the Administrators of Citizens or Montevue, or to the Executive Director of CCRC/Montevue.

## CHAPTER VII <sup>2</sup>

### SEPARATIONS

Except as otherwise provided for by statutes or by resolutions of the Board of County Commissioners, the following provisions govern separations affecting regular employees. When an employee separates from employment with Frederick County, the separation date will be the last day the employee actually works. Leave or PTO cannot be "run out" prior to the separation date, and holidays that follow the separation date will not be paid.

All separations of regular employees shall be designated as one of the following types and shall be accomplished in the manner indicated.

#### **Section 1 - Retirement**

Any employee who is eligible may retire in accordance with the procedure established by the retirement/pension plan in which the employee participates.

#### **Section 2 - Resignation/Quit**

- A. To resign in good standing an employee should give his/her Division Director at least fourteen (14) calendar days prior written notice. Normally, failure to comply with this rule shall be entered on the service record of the employee, shall result in a denial of re-employment rights. For employees who started their employment prior to July 1, 2011, failure to provide the required fourteen (14) calendar days prior written notice shall result in a reduction of accumulated annual leave or PTO leave by one day for each calendar day less than the required fourteen days notice. For employees who started their employment on or after July 1, 2011, failure to provide the required fourteen (14) calendar days prior written notice shall result in the forfeiture of their entire PTO balance.
- B. An employee who fails to report to work for three consecutive work days without authorized leave shall be separated from the payroll and reported as "quit". An employee who quits under these conditions may be ineligible for re-employment.
- C. A Division Director, with the approval of the Director of Human Resources, may exempt from any or all of these penalties an employee who has given less than the required notice, if in his/her judgment exceptional circumstances warrant such exemptions.

#### **Section 3 - Lay-offs**

- A. Any involuntary separation for other than disciplinary reasons shall be considered a lay-off.
- B. When it becomes necessary to reduce the working force in any department because of the lack of funds or other causes, factors to be considered in making the decision may include: past performance, length of service with the County, and length of service in a class. The manner in which these and other factors may be considered when eliminating job positions and making layoffs shall be determined by the County, based on its sole discretion. In the event of a lay-off, the County shall attempt to transfer the employee(s) affected to another department, without reduction in seniority, and if possible, without reduction in pay.

#### **Section 4 - Death**

When a regular employee dies while employed by Frederick County, any salary due the employee plus his/her accumulated PTO and ALA shall be paid to a named beneficiary designated by the employee, or in the event no beneficiary has been named, to the personal representative of his/her estate or the parties entitled to the estate, as defined in the General Laws of the State of Maryland pertaining to the distribution of personal property.

#### **Section 5 - Disability**

A Division Director may direct any employee under his/her jurisdiction to be examined by a County appointed medical professional. If a disability of any kind is discovered which impairs the effectiveness of an employee or makes his/her continuance on the job a danger to the employee or others, the following action shall be taken:

- A. An attempt will be made to make a reasonable accommodation in the current position. If this is not possible, an attempt will be made to place the employee in a vacant position where the employee is able to perform the essential job functions for that position.
- B. If the employee cannot be placed satisfactorily in another position, or a reasonable accommodation cannot be made, the Division Director shall separate the employee from the County service. The employee will be provided with information concerning their benefits prior to separation.

<sup>2</sup> Certain sections of this Chapter do not apply to the Administrator of Citizens or the Administrator of Montevue, or to the Executive Director of CCRC/Montevue.

## CHAPTER VII – Separations (continued)

### **Section 6 - Dismissals**

All dismissals are made by the appropriate Division Director through the Director of Human Resources. No dismissal of a regular employee shall take effect until a Division Director gives to such employee a written statement setting forth the reasons therefore and his/her appeal rights and the employee is given an opportunity to respond to the reasons given for the dismissal. An employee who has been dismissed shall be paid for his/her accrued PTO, ALA and compensatory leave, and may be denied re-employment rights.

### **Section 7 - Appeal Procedure**

Any separation action provided in this Chapter may be appealed through one of the procedures as provided in Chapter IX - Appeals Procedure.

## CHAPTER VIII

### ABOLISHMENT OF DIVISIONS, SECTIONS OF DIVISIONS OR POSITIONS; MERGER OF DIVISIONS OR SECTIONS OF DIVISIONS INTO NEW DIVISIONS; TRANSFER OF POSITION FROM ONE DIVISION TO ANOTHER DIVISION; INTER-DIVISION TRANSFERS; RECLASSIFICATION; REINSTATEMENT; APPEAL PROCEDURE

#### Section 1 - Abolishment of Divisions or Sections of Divisions or Positions

When a Division (Agency, Board or Commission), a section of a Division or a position or positions are abolished as no longer serving the best interest of the County, every effort shall be made to provide the affected regular employees of that Division, section of a Division, position or positions, other job opportunities within their qualifications and skills. This does not guarantee the affected employee's position in the same class and rate of pay previously held.

- A. If another job opportunity is unavailable for employees falling under this condition, or if the employee does not wish to accept another offered position, the employee is to be terminated upon the date the change is to be effected.
- B. Severance pay shall be extended to employees terminated under the foregoing paragraph who are not offered another job opportunity on the following basis: 0 to 2 years of service: six and one-half (6 ½) days of pay; 2 to 10 years of service: thirteen (13) days of pay; 10 years and more of service: nineteen and one-half (19 ½) days of pay.

#### Section 2 - Merger of Divisions or Sections of Divisions

When a Division (Agency, Board or Commission) or a section of a Division is merged into a new or existing Division, employees of the merged Division or section of a Division shall be given job opportunities, if available, within their skills and qualifications within the new Division, but not necessarily within the same class and rate of pay previously held.

If an employee fails to accept the job opportunity presented, the employee is to be terminated upon the date the merger is to take place and shall not be eligible for severance pay.

#### Section 3 - Transfer of Position from One Division to Another Division

When a position is transferred from one Division to another Division, the employee in the position shall move with that position at the same class and rate of pay. If the employee involved refuses to move with the position, the employee is to be terminated upon the date of transfer and shall not be eligible for severance pay.

#### Section 4 - Inter-Division Transfers

A transfer of an employee from one Division to another must have the approval of the Director of Human Resources. An employee who is transferred shall continue at the same pay rate except as otherwise provided.

#### Section 5 - Reclassification

- A. When an employee's position is reclassified to a higher salary grade, the employee's current rate of pay will be increased by 3.5% of that rate of pay for each grade, or increased to the minimum of the new grade, whichever is higher. For example, if an employee's position is reclassified from grade 8 to grade 10, the employee's current rate of pay will increase 7% (3.5% X 2) or to the minimum of the new grade, whichever is higher.
- ~~B. When an employee's position is reclassified to a lower salary grade, he/she shall be placed within the lower grade range at the same rate of pay. However, if the rate of pay exceeds the maximum of the lower grade, the employee will not be eligible for annual increments or economic adjustments until the rate of pay falls within the lower grade range.~~
- C. Reclassifications are not subject to appeal.

#### Section 6 - Reinstatement

Any former employee who has resigned in good standing may be reinstated, if a vacancy exists, to the same or similar position with the same Division from which he/she resigned within one year of the date of resignation. The employee may be reinstated at the same rate of pay in the pay schedule which he/she had received but cannot be reinstated at a higher rate of pay. An employee reinstated under this section is eligible for all benefits accorded with his/her adjusted date of employment. An employee who is reinstated to regular employment under this section will have his/her original entry date adjusted for the purpose of PTO computations.

#### Section 7 - Appeal Procedure

Except for reclassifications which are exempt from appeal, actions under this Chapter may be appealed through one of the procedures as provided in Chapter IX - Appeals Procedure, as applicable.

## CHAPTER IX

### APPEALS PROCEDURE<sup>3</sup>

#### Section 1 - Appeal of Disciplinary Action; Dismissals

- A. A regular employee who has completed his/her probationary period who is disciplined under provisions of Chapter VI or dismissed from service under provisions of Chapter VII may, within five (5) working days of the receipt of the notice of such action, file a request in writing with the Division Director or appropriate administrator for a hearing. The request form for a hearing may follow the sample form as provided in the appendix of the Personnel Rules, or a style of the employee's choosing. The request, to the best of the appellant's ability, shall provide all the pertinent information concerning the action which is being appealed.
- B. Upon receipt of the request for a hearing, the Division Director or appropriate administrator shall set a date, time and place for such a hearing not less than five (5) nor more than ten (10) working days after receipt of the request, unless otherwise mutually agreed upon by both parties, and shall notify the employee thereof. After the hearing, the Division Director or appropriate administrator will advise the employee of his/her decision within ten (10) working days. If the employee still is unsatisfied, the employee may, within five (5) working days of receipt of the Division Director's decision, file with the Division Director a written request to have his/her case heard by the Board of Trustees of Citizens Care and Rehabilitation Center and Montevue Assisted Living ("Board of Trustees").
- C. Upon receipt of a request for a hearing, the Board of Trustees of Citizens Care and Rehabilitation Center and Montevue Assisted Living shall set a date, time and place for a hearing to be held not less than five (5) nor more than twenty (20) working days after the receipt of the request, unless otherwise mutually agreed upon by both parties, and shall notify the employee thereof.
  - 1. All hearings shall be conducted in closed session.
  - 2. If the Board of Trustees determines that a hearing is not necessary or appropriate, it may issue a written decision with respect to the disciplinary action or dismissal without holding a hearing.
  - 3. The Board of Trustees may determine if the action appealed from should be affirmed, reversed, or otherwise modified.
  - 4. The affected employee shall be notified in writing by the Board of Trustees within ten (10) working days of the hearing of the final determination with respect to the disciplinary action or dismissal.
  - 5. The decision and action of the Board of Trustees shall be final.

#### Section 2 - Grievance Procedure Appeal

Appeals which involve disciplinary actions and/or dismissals shall be handled as provided in Chapter IX, Section 1. Other grievances which concern a decision or action that affects a regular employee's terms or conditions of employment, or a regular employee's belief that a mistake has been made in the administration of a rule, plan, or policy that affects a working activity, may constitute a grievance. This does not include negotiations of wages, salaries, or fringe benefits; position classifications or reclassifications; non-selection for a position or promotion to a County position; or actions taken against an employee during the employee's probationary period. The determination of the Board of Trustees as to what constitutes a term or condition of employment shall be final.

Oral and written warnings, and oral and written reprimands, are not subject to any type of appeal procedure.

A grievance shall be handled in the following manner:

- Step 1: Within ten (10) working days after the event giving rise to the grievance or within ten (10) working days following the time when the employee should reasonably have known of its occurrence, the employee may request in writing a meeting to discuss the matter with his/her immediate supervisor. The immediate supervisor shall attempt to adjust the grievance and shall respond to the employee in writing within ten (10) working days of the request.
- Step 2: If the employee is not satisfied with the decision of the immediate supervisor, he/she may request a hearing with and a decision by the Department Head regarding the grievance. This request must be presented in writing to the Department Head within five (5) working days of the receipt of the decision of the immediate supervisor, and set forth the facts on which the grievance is based and the relief requested. Upon receipt of this request, the Department Head shall attempt to adjust the grievance and shall respond to the employee in writing within five (5) working days.

<sup>3</sup> Working days for the purpose of this Chapter are defined as Monday through Friday, with the exception of holidays as adopted by the County. This Chapter does not apply to the Administrator of Citizens or the Administrator of Montevue, or to the Executive Director of CCRC/Montevue.

## Chapter IX – Appeals Procedure (continued)

- Step 3: If the employee is not satisfied with the decision of the Department Head, he/she may request a hearing with and a decision by the Division Director, if applicable, regarding the grievance. This request must be presented in writing to the Division Director within five (5) working days of the receipt of the Department Head's decision, and set forth the facts on which the grievance is based and the relief requested. Upon receipt of this request, the Division Director shall attempt to adjust the grievance and shall respond in writing within five (5) working days.
- Step 4: If the employee is not satisfied with the decision of the Division Director, he/she may request a decision by the Board of Trustees. This request must be presented in writing to the Division Director within five (5) working days of receipt of the Division Director's decision, and set forth the facts on which the grievance is based and the relief requested. Upon receipt of this request for a hearing, the Board of Trustees shall set a date, time and a place for a hearing to be held not less than five (5) nor more than twenty (20) working days after receipt of the request. If the Board of Trustees, determines that a hearing is not necessary or appropriate, it may issue a written decision on the grievance without holding a hearing. The employee must be notified in writing of the decision within ten (10) working days. The decision of the Board of Trustees is final.

### Section 3 – Specific Conditions of All Appeals

- A. The appealing employee shall have the right to appear with a representative of his/her choosing.
- B. The failure of the employee to appeal a decision to the next higher stage within the designated time shall constitute a withdrawal and shall bar future action by the employee.
- C. The failure of a Division Director to communicate his/her decision within the designated time shall permit the employee to proceed to the next stage of the appeal.
- D. The employee may withdraw the appeal at any time by written notice.
- E. All written material concerning an appeal of any type shall become a part of the personnel record of the employee involved, unless otherwise agreed by both the employee and the appointing authority.

## CHAPTER X

### ATTENDANCE, HOLIDAYS AND LEAVE

#### Section 1 - Hours of Work

The hours of work for employees shall be determined by the Board of Trustees.

#### Section 2 - Attendance

Each Division Director shall be responsible for the attendance of all persons in his/her department.

#### Section 3 – Holidays

- A. Only the following days are designated as holidays for eligible regular employees at CCRC/Montevue. The dates of these holidays will be determined by the Board of Trustees.
  - New Year's Day
  - Memorial Day
  - Independence Day
  - Labor Day
  - Thanksgiving Day
  - Christmas Day
- B. Employees who are assigned and required to work on a designated holiday shall be paid at their regular rate for the hours worked, and shall also receive their regular "holiday pay". Employees are not permitted to choose to take a paid day off at some other time in lieu of receiving holiday pay. Employees, including exempt employees, will not be allowed to accrue holiday hours for use at a later time, in any manner.
- C. "Holiday pay" shall not be counted as hours worked in any work week when determining eligibility for overtime pay.

#### Section 4 – Paid Time Off ("PTO")

##### A. Background:

- 1. The purpose of Paid Time Off ("PTO") is to provide employees with flexible paid time off from work that can be used for such needs as vacation, personal or family illness, doctor appointments, school, and other activities of the employee's choice. CCRC/Montevue's goals in creating PTO are to reduce unscheduled absences, reduce overtime and reduce the need for supervisory oversight.
- 2. Effective July 1, 2011, PTO replaces and supersedes all existing annual leave and sick leave that have been provided under the Frederick County Personnel Rules for all employees at CCRC/Montevue. (Holidays are paid differently, pursuant to the provisions of Section 3 in this Chapter.)
- 3. Employees who have accrued annual leave will not lose that accrued leave. It will continue to be available for use as annual leave and be held in a separate account known as Annual Leave Account (ALA), subject to all of the conditions and requirements for use of annual leave that are set forth in this Chapter. The ALA days may be used before using PTO days or after using PTO days; however, when an employee's ALA Account has been exhausted, it will not be replenished.
- 4. Employees who have accrued sick leave will not lose that leave. It will continue to be available for use as sick leave and be held in a separate account known as Sick Leave Account (SLA), subject to all of the conditions and requirements on the use of sick leave that are contained in this Chapter. However, an employee is not eligible to use that sick leave account until after all of their accrued PTO leave has been exhausted. (An exception will apply only in cases in which an employee is required by the employer to remain away from work because of their own illness, and concerns about exposing residents, staff and visitors to it. In such cases, employees will be permitted to use their accrued sick leave without first exhausting their PTO leave.) When an employee's Sick Leave Account has been exhausted, it will not be replenished.



**B. Guidelines for PTO Use**

1. While PTO will accrue on a proportional basis from the date of hire, employees are not eligible to use PTO until they have been employed for 90 days.
2. An exception, not to exceed two days, will be made if an employee has an illness or injury that prevents them from working, which is substantiated by a medical certificate signed by a licensed medical professional. Any other employee absences during the first 90 days of employment will be unpaid, and may result in discipline for absence without leave under Section 12 of this Chapter.
3. Each regular full time employee will accrue PTO monthly in hourly increments based on their length of service as defined below. Benefited part-time employees will accrue a proportionate percentage of PTO in relation to the hours they worked. Accrual for full time employees occurs on the first paycheck in the new month and for benefited part time employees on every pay check. PTO taken will be subtracted from the employee's accrued time bank in four hour increments. Temporary employees, part-time non-benefited employees and contract employees are not eligible to accrue PTO.
4. PTO use cannot be authorized for use until it has been accrued.
5. Time that is not governed by the provisions on PTO includes paid holidays, administrative leave, jury leave, bereavement leave, military leave and disability leave.
6. Employees may use time from their PTO bank in not less than 4 hour increments.
7. In order to take a PTO day, an employee must first submit a request in writing at least 5 days in advance, using the PTO request form. In order to take a week of PTO, an employee must first submit a request in writing at least 6 weeks in advance, using the PTO request form.
8. In all instances, PTO usage is contingent on being approved by the employee's supervisor in advance. PTO requests that negatively affect CCRC/Montevue operations may be denied. CCRC/Montevue appreciate as much notice as possible when an employee wants to use PTO for a scheduled absence.

**C. Unscheduled PTO**

1. The only exception to the 5-day advance notice requirement for PTO use is for legitimate, unexpected illnesses or emergencies. In those cases the employee must notify his/her supervisor at least four hours prior to the time set for beginning his/her daily duties and each subsequent day, and submit a written request to use PTO to cover their absence(s) immediately after they return to work.
2. If an employee requests to use PTO on the basis that a legitimate, unexpected illness or emergency exists, CCRC/Montevue may take reasonable steps to verify the accuracy of the information provided by the employee. If the information provided is not accurate, or if the employee refuses to provide the information, the employee may be disciplined and will not be paid.
3. Unscheduled PTO for unexpected illness or emergencies is limited to cases of the employee's actual unexpected sickness or disability, and the actual, unexpected sickness or disability of an employee's child, dependent, spouse, parent or parent-in-law.
4. The Division Director may, with the approval of the Director of Human Resources, institute a policy whereby an employee is required to submit a medical certificate signed by a duly licensed medical professional which authenticates a legitimate, unexpected illness or emergency, before the employee may use unscheduled PTO.
5. Examples of situations in which this requirement may be imposed include, but are not limited to, the following:
  - a. Any pattern of unscheduled PTO usage, such as the use of six days in a six month period, one or two days at a time.
  - b. Habitual unscheduled PTO usage before or after regular work days, and/or on the days immediately before and after holidays.
  - c. An employee who has no significant accumulation of PTO leave after at least three to five years of service, without sustaining a major illness during that time period.
6. Employees suspected of abusing unscheduled PTO will be notified and appropriate disciplinary action taken.

**D. Paid Time Off (PTO) Requirements:**

1. Employees who use more than three consecutive scheduled or unscheduled PTO days as a result of illness or injury may be required to present a certification from a licensed medical professional or a County appointed medical professional that he/she is able to perform all the duties of his/her position to 100% capability.
2. If an employee cannot perform the duties of his/her position up to 100% capability, he/she may be refused the right to return to work until this capability is reached.
3. If, as a result of an illness, an employee cannot perform the essential job functions of his/her position, upon the employee's request, an attempt will be made to make a reasonable accommodation and to place the employee in a position where he/she is capable of performing the duties which the position requires. If a reasonable accommodation cannot be made, the Division Director may separate the employee from the County service.
4. PTO taken in excess of the PTO accrued will constitute absence without leave under Section 12 of this Chapter, will be unpaid, and may result in disciplinary action up to and including employment termination.
5. Employees on Family and Medical Leave Act (FMLA) leave must use all accrued leave time before the start of the unpaid FMLA time.
6. Pursuant to Chapter VII, Section 2 in these rules, any employee who fails to report to work for three consecutive work days without authorized leave shall be separated from the payroll and reported as "quit".

**E. Accrual Rates for Paid Time Off (PTO):**

PTO is earned on the following schedule based on an employee's regularly scheduled work week hours.

<u>Years of Service</u>	<u>PTO Accrual Rate</u>
up to 5:	20 days accrued per year
5 to 10:	27 days accrued per year
10 or more:	32 days accrued per year

**F. Carryover and use of PTO**

1. PTO will be administered on a fiscal year basis.
2. Employees may not carry more than 120 hours of accrued PTO over into a new fiscal year. Any PTO hours in excess of 120 at the end of the fiscal year will be lost.
3. Employees are responsible for monitoring and taking their PTO over the course of a year so that they do not lose time accrued when the current fiscal year ends. (The accrual will be posted on the employee's pay stub or pay advice document.) PTO is subject to supervisory approval and because of ongoing operational and staffing needs, not every employee can receive approval to take PTO leave at the end of the year.
4. If unforeseen, extenuating circumstances prevent an employee from taking previously scheduled PTO, that previously scheduled PTO may be carried over and taken in the first half of the next calendar year, upon written request and with the approval of the Division Director, County Manager and Director of Human Resources.
5. Pursuant to Chapter VII, Section 2 of these rules, in order to resign in good standing an employee must give his/her Department Head at least fourteen (14) calendar days prior written notice. In addition to all other consequences provided in the Personnel Rules, failure to comply with this provision may result in a reduction of accrued PTO leave (or ALA) by one day for each calendar day less that the required fourteen days notice.
6. Employees hired on or after 7/1/2011 who fail to give at least fourteen (14) calendar days prior written notice of employment termination, may forfeit their entire PTO balance.
7. PTO leave cannot be "run out" prior to the date of separation.

## Chapter X - Attendance, Holidays and Leave (Continued)

### G. Designation of all CCRC and Montevue Employees as "Essential Employees"

Due to the continuous, around the clock operations and critical nature of the services provided, **ALL** CCRC/Montevue employees are designated as "essential employees" and are not eligible to receive administrative leave during inclement weather. This means that even when County offices are closed, other County operations are curtailed, for example due to inclement weather conditions, and administrative leave or "liberal leave" is authorized for employees, CCRC/Montevue employees are **required to report to work**. If an employee fails to report to work, they will receive no pay and no administrative leave, no PTO use will be authorized to cover that missed time, and the employee may be subject to disciplinary action.

### Section 5 - Annual Leave Account ("ALA")

- A. Because PTO under Section 4 of this Chapter is intended to replace annual leave, effective July 1, 2011 no CCRC/Montevue employees will earn or accrue any further annual leave.
- B. The accrued balance of annual leave on June 30, 2011 will be maintained in a separate Annual Leave Account ("ALA") and be available for employees to use, subject to the provisions in this Chapter.
- C. No allowance shall be made for sickness or incapacity of an employee while using ALA leave.
- D. Under proper termination procedures as defined in Chapters VI, VII and VIII, an employee shall be entitled to be paid for all accrued and unused ALA leave. ALA leave cannot be "run out" prior to the date of separation.
- E. Requests for ALA leave use: ALA leave may be taken only after approval by the appropriate authority. Approval will be subject to the ongoing operational needs and work schedules of Citizens and Montevue, including the need to avoid the creation of overtime, but every employee shall be afforded reasonable opportunity to use ALA leave during the year, if properly requested.
- F. ALA leave may be used, if requested properly, for vacation purposes or for portions of a day used for personal reasons.
- G. ALA days may be used before using PTO days or after using PTO days; however, when an employee's ALA Account has been exhausted, it will not be replenished.

### Section 6 - Sick Leave Account ("SLA")

- A. Because PTO under Section 4 above is intended to replace sick leave, effective July 1, 2011 no CCRC/Montevue employees will earn or accrue any further sick leave.
- B. The accrued balance of sick leave on June 30, 2011 will be maintained in a separate Sick Leave Account ("SLA") and be available for employees to use, subject to the provision in this Chapter.
- C. An employee is not eligible to use that sick leave account until after all of their accrued PTO leave has been exhausted.
- D. An exception will apply only in cases in which an employee is required by the employer to remain away from work because of their own illness, and concerns about exposing residents, staff and visitors to it. In such cases, employees will be permitted to use their accrued sick leave without first exhausting their PTO leave.
- E. When an employee's Sick Leave Account has been exhausted, it will not be replenished.
- F. SLA leave usage shall be allowed in case of the employee's actual sickness or disability, including pregnancy of the employee, and necessary medical and dental appointments. SLA leave shall also be allowed for the purpose of caring for the actual sickness, disability, or necessary medical/dental appointments of an employee's child, dependent, spouse, parent, or parent-in-law.
- G. In order to receive compensation while absent on SLA, the employee must notify his/her supervisor at least four hours prior to the time set for beginning his/her daily duties and each subsequent day, unless the employee is so ill as to be incapable of notification.
- H. The Director of Human Resources, upon written request by the Division Director or appropriate authority, may require that the employee be examined by a County appointed medical professional at any time.
- I. The Division Director, with the approval of the Director of Human Resources, in order to prevent abuse of SLA leave or to assure medical attention for an employee, may institute a policy whereby

an employee may be required to submit a medical certificate signed by a duly licensed medical professional which authenticates a period of illness of one day or more. Examples of SLA leave abuse may include, but are not limited to, the following:

1. Any pattern of SLA leave usage, such as the use of six days in a six month period, one or two days at a time.
  2. Habitual SLA leave absences before or after regular work days, and/or on the days immediately before and after holidays.
- J. If an employee requests to use SLA on the basis that a legitimate, unexpected illness or emergency exists, CCRC/Montevue may take reasonable steps to verify the accuracy of the information provided by the employee. If the information provided is not accurate, or if the employee refuses to provide the information, the employee may be disciplined and will not be paid.
- K. Employees suspected of abusing SLA leave will be notified and appropriate disciplinary action taken.
- L. Upon termination of employment, an employee SHALL NOT be paid for any accrued and unused SLA leave.
- M. Returning from SLA leave: Upon returning from SLA leave, the County may request from an employee a certification from a licensed medical professional or a County appointed medical professional that he/she is able to perform all the duties of his/her position to 100% capability.
1. If any employee cannot perform the duties of his/her position up to 100% capability, he/she may be refused the right to return to work until this capability is reached.
  2. If, as a result of an illness, an employee cannot perform the essential job functions of his/her position, upon the employee's request, an attempt will be made to make a reasonable accommodation and to place the employee in a position where he/she is capable of performing the duties which the position requires. If a reasonable accommodation cannot be made, the Division Director shall separate the employee from the County service.
- N. If an employee is on SLA leave in excess of sixty (60) consecutive working days, or a combination of SLA leave days in excess of sixty (60) working days in any calendar year, his/her beginning date of employment will be adjusted to the total number of days over sixty (60), for computing PTO.

#### **Section 7 - Extended Sick Leave (When PTO, ALA and SLA leave are exhausted)**

If a regular employee has an extended illness or is absent as a result of an off-duty accident for an extended period of time, and has used all of his/her PTO, ALA and SLA leave, the County provides, upon proper application to the Division of Human Resources, an extended sick leave benefit that provides payment of one-half the employee's weekly salary for the remaining period of illness up to six months from the date the extended sick leave began. This benefit may not exceed six months in a three year period. The Director of Human Resources may request that the employee be examined by a County appointed medical professional at any time.

An employee shall not be allowed to accumulate PTO leave while on extended sick leave.

Extended Sick Leave may not be used for any condition covered under any Workers' Compensation law or regulations.

#### **Section 8 - Military Leave**

- A. A regular employee who leaves the service of the County for the purpose of enlisting in the armed forces of the United States (armed forces means U.S. Army, U.S. Air Force, U.S. Marines, U.S. Navy, U.S. Coast Guard, U.S. Public Health Services, and any special military unit under the direction of the foregoing branches of service), shall be granted a leave of absence without pay and shall be entitled to be reinstated in his/her former job classification or to a position of like seniority status and pay grade unless the circumstances of the County have so changed as to make it impossible or unreasonable to do so. This leave shall not be granted beyond the first voluntary enlistment unless a national emergency exists.
- B. A regular employee who is drafted or recalled to active duty by reason of his/her reserve or other status shall be granted a leave of absence without pay and shall be entitled to be reinstated in his/her former classification or to a position of like seniority status and pay grade unless his/her position has been abolished in the time between his/her last day of work and application for return.

## Chapter X - Attendance, Holidays and Leave (Continued)

This leave shall not be granted beyond the first voluntary enlistment unless a national emergency exists.

C. Application for reinstatement shall be made as follows:

1. After a leave under 30 days in duration, an employee must return to work the next assigned shift or regular work day. For a leave between 31 and 180 days, the employee must apply for re-employment within 14 days after discharge. For a leave greater than 181 days, application for reinstatement must be made within 90 days after discharge from active service or within two years if hospitalization continues after discharge.; and
2. Employee presents copy of honorable discharge or certificate showing satisfactory completion of service.

- D. Any regular employee who is a member of any United States military reserve or national guard unit and is required to engage in annual training exercises will be granted leave with pay for a period of time not to exceed fifteen (15) days in one calendar year, if it will not result in harm to the interest of the County. County compensation will continue in effect during the time of military leave.
- E. When an employee returns from a military leave of absence, and the original position is upgraded or reclassified, the employee is eligible for the upgraded/reclassified position if qualified.
- F. No type of military leave shall be deducted from other types of leave earned by the employee.
- G. An employee returning from military service shall have a maximum of one year's service credited toward his/her length of service with the County for leave accrual purposes only.
- H. Temporary and part-time employees as defined in Chapter IV, Section 2 are not included.
- I. Regular employees are entitled to all rights created by or arising under the Uniformed Services Employment and Reemployment Rights Act (USERRA), and should contact the Human Resources Division with their concerns or requests for additional information.

### Section 9 - Educational Leave

A regular employee may be given educational leave without pay for the purpose of taking courses directly related to his/her work. Request for such leave must be approved in advance by the Division Director and the Director of Human Resources. Since the time required for educational leave may vary from case to case, the Director of Human Resources may review and decide the merits of each case.

### Section 10 - Bereavement Leave

- A. Permission for leave for maximum periods of three (3) working days, depending on need, shall be granted to any regular or probationary employee by the Division Director in the event of death of one of the following members of the family: spouse, parents, children, sisters, brothers, grandparents, persons living in the same home, and step parents, step sisters, step brothers. If travel requiring staying away from home overnight is involved, additional days may be allowed and charged against PTO leave.
- B. A regular or probationary employee who wishes to attend the funeral of other people outside of the immediate family, shall be permitted to do so by using their PTO time. If PTO leave is granted for a portion of a day, the employee will be expected to return to duty. Failure to return to duty may result in discipline.

### Section 11- Jury Leave

A regular or probationary employee shall be permitted to be absent from his/her duties without loss of pay or charge against leave credits for the purpose of serving on a jury. If the employee is excused or released by the Court for any day or substantial portion of a day, the employee is expected to return to duty. Failure to return to duty when possible shall result in charge to PTO, or leave without pay. To receive his/her regular rate of pay while on jury duty, the employee shall produce evidence to the Division of Human Resources of jury attendance.

### Section 12 - Absence Without Leave

An absence of an employee from duty, including any absence for a single day or part of a day, that is not authorized by a specific grant of leave of absence under the provisions of these regulations shall be deemed to be an absence without leave. Any such absence shall be without pay and may be subject to

## Chapter X - Attendance, Holidays and Leave (Continued)

disciplinary action. In the absence of such disciplinary action, any employee who absents himself/herself for three (3) consecutive working days without leave shall be deemed to have quit. Such action may be reconciled by a subsequent grant of leave if the conditions warrant.

### Section 13 - Disability Leave (Workers Compensation)

An employee who is temporarily disabled in the line of duty shall receive full pay for the period of his/her disability without charge against his/her leave, subject to the following conditions:

- A. The disability resulted from an injury or illness sustained directly in the performance of the employee's work, and it is determined that the injury or illness is covered under the State Worker's Compensation Act.
- B. If incapacitated for his/her regular employment, the employee may be assigned to perform other duties for the period of recuperation. The assignment may include work in the employee's Division, or elsewhere. Unwillingness to accept such an assignment as directed by the Division Director or the Director of Human Resources will make the employee ineligible for disability leave during the time involved.
- C. A County appointed medical professional shall determine the physical ability of the employee to continue working or to return to work.
- D. Disability leave shall not exceed ninety (90) working days for any one injury, and after ninety days said employee may, at his/her request, be placed on sick leave.
- E. Payment of disability leave is also contingent upon the assignment of Worker's Compensation checks for the first ninety-day period to the County.
- F. If a qualified health care provider certifies that the employee is able to return to a modified duty assignment and the employee declines the offer of a modified duty assignment, the employee will not be entitled to substitute or use any form of paid leave created under these rules to cover their absence until such time as the workers' compensation benefits cease. However, once the modified duty assignment has been accepted, leave may be requested in accordance with these rules.

### Section 14 - Family and Medical Leave Act (FMLA)

- A. In addition to other types of leave mentioned in this chapter, regular employees are eligible for FMLA leave. Upon proper written application submitted to the Division of Human Resources, regular employees may be approved to receive a total of twelve (12) work weeks of leave (paid or unpaid) during any 12 month period (measured forward from the first date the leave begins) for one or more of the following conditions:

- Birth of a son or daughter;
- Placement of a son or daughter with the employee for adoption or foster care;
- Care for spouse, son, daughter, parent or parent-in-law who has a serious health condition;
- or
- A serious health condition of the employee.

1. All eligible accrued leave (e.g. PTO, ALA, SLA, holiday leave and/or compensatory time) must be used before unpaid leave can be used. Both paid and unpaid leave will count toward the maximum total of 12 work weeks of FMLA leave within a 12 month period.
2. The County will continue the employee's health care coverage at the regular employee's rate as long as all employee contributions are paid during the unpaid leave periods. However, if the employee does not return to work, the employee will be responsible for the County's portion of the premiums for the unpaid leave period. Arrangements must be made with the Human Resources office.
3. During the unpaid FMLA leave periods, PTO leave will not be accrued.
4. While the employee is using FMLA leave, the employee's position will be protected, and the employee will return to the position at the same grade and rate of pay at which he/she left.
5. Whenever the need for FMLA leave is foreseeable, the employee should provide 30 days advance written notice before the leave is to begin.

- B. Whenever the leave request is for a serious health condition, the County will require that a request for leave be supported with certification from the health care provider of the employee, spouse, son, daughter, parent or parent-in-law. The Certification of Physician or Practitioner form must be used.

1. If the validity of the certification is in doubt, the County may request that the employee obtain a second opinion, at the County's expense, from a health care provider designated by the County.

## Chapter X - Attendance, Holidays and Leave (Continued)

2. If there is a conflict of opinion between the two health care providers, the County may request the employee to obtain, at the County's expense, an opinion from a third provider jointly approved by the County and the employee.
- C. FMLA leave time shall run concurrently with Disability Leave, leave that is taken for any condition covered under the Workers' Compensation law, and any other type of leave (for example, PTO, ALA, SLA, compensatory time, extended sick leave and/or leave without pay) that is taken in connection with any FMLA-qualifying condition.
- D. FMLA leave shall end:
  - When the employee, spouse, son, daughter, parent or parent-in-law is no longer affected by the serious health condition;
  - If the employee fails to provide documentation to continue the leave when requested;
  - When the employee has exhausted the maximum period of time eligible for FMLA leave. If additional time is needed, the employee may request leave of absence in accordance with the Leave Without Pay section of these Personnel Rules. Contained in Section 14). An absence beyond the maximum time under FMLA leave is not protected by that law.
  - If the employee accepts other employment.

### Section 15 – Leave of Absence

A Division Director may grant a regular employee a leave of absence without pay for a period not to exceed one year. Failure of an employee to return to duty upon the expiration of his/her leave without pay shall be interpreted as a resignation. Leave without pay may be granted only when, in the discretion of the Division Director, it will not result in harm to the interest of the County as an employer beyond any benefits to be realized. If the employee is on a leave of absence in excess of thirty (30) consecutive calendar days, his/her beginning date of employment will be adjusted by the total number of calendar days over thirty (30) for computing PTO only.

## CHAPTER XI

### MISCELLANEOUS INSURANCE AND BENEFITS

#### **Section 1 – Worker's Compensation**

- A. Frederick County provides full protection under the Worker's Compensation laws of the State of Maryland.
- B. To be sure of coverage under Worker's Compensation insurance, each employee must immediately report any injury sustained to his/her supervisor who, in turn, contacts the Risk Manager for proper action. Failure to report an injury may affect a claim for coverage.

#### **Section 2 - Retirement Systems**

- A. On July 1, 1993, Frederick County established the Frederick County Employees Retirement Plan for County employees. The Frederick County Employees Retirement Plan is a defined benefit pension plan. All regular employees hired on or after July 1, 1993, are required to participate in the County's plan as a condition of employment. The majority of support for the plan is provided by the County. However, employees also are required to make contributions to the plan. The amount of the required contribution depends on whether the employee is a uniformed employee or a non-uniformed employee. Retirement benefits are payable at normal, early or delayed retirement. Retirement benefits are also payable at termination, in the event of death or disability. At orientation, employees are provided a summary plan description which explains the plan in greater detail.
- B. Regular employees employed by the County before July 1, 1993, had a one-time option to transfer to the County plan from the Maryland State Retirement or Pension System. Employees who elected to remain as participants in the State plans are subject to the provisions governing those plans.

#### **Section 3 - Social Security**

Social Security benefits are provided for County employees through payroll deductions from employees and matching funds provided by the County.

#### **Section 4 - Health Care Plans**

Each regular County employee may elect to join a Medical and/or Dental Care Plan. The employee's share of the cost shall be determined in the annual budget by the Board of County Commissioners and will be paid by means of regular payroll deductions.

Complete information on the Medical and Dental Care Plans will be provided for the employees in separate booklets.

#### **Section 5 - Life Insurance**

The County provides and pays the premium for insurance equal to two times the regular employee's annual salary (or four times the annual salary in the event of accidental death). The Division of Human Resources will provide beneficiary forms for the employee to complete.

A voluntary life insurance program is offered to regular employees. Through this program regular employees may purchase individually owned life insurance for themselves and for their spouses and dependents. Employees may enroll on an annual basis.

#### **Section 6 - Employee Assistance Program**

The County offers an Employee Assistance Program that provides employees and their families confidential assistance in resolving problems that affect their personal lives and job performance. More information may be obtained from the County Intranet and Division of Human Resources.

#### **Section 7 - Deferred Compensation Plan**

Each regular County employee may elect to join the Deferred Compensation Plan which is a federally approved pre-tax retirement savings incentive program. The County does not contribute on behalf of the employee. Enrollment, changes to the amount of contribution, and investment changes may be made at any time. Complete information on the Deferred Compensation Plan may be obtained from the Division of Human Resources.

#### **Section 8 – Long Term Care Insurance**

Each regular County employee may elect to purchase Long Term Care Insurance to cover long term nursing home stays or at home health care not covered by the Health Care Plan. Premiums are paid by the employee. Additional information may be obtained from the Division of Human Resources.



Chapter XI – Miscellaneous Insurance and Benefits (Continued)

**Section 9 – Flexible Spending Accounts**

The County offers accounts to direct a portion of pay, on a pre-tax basis, for reimbursement of certain health care and dependent care expenses. More information can be obtained from the Division of Human Resources.

## NOTICE OF APPEAL OF DECISION

I, \_\_\_\_\_ hereby appeal the decision of  
\_\_\_\_\_, made on or about  
\_\_\_\_\_ and communicated to me on or about \_\_\_\_\_.

Briefly state above elements of decision made and explain how it aggrieves and affects you, giving reasons.

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DATE

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EMPLOYEE'S SIGNATURE

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DEPARTMENT

(Use this form – or similar style – to initiate an appeal of a decision. When properly completed, it should be presented to the Department Head and/or Division Director.)

## **AFFIRMATIVE ACTION PLAN AND EEO POLICY**

Resolution No. 87-19 as revised by  
The Board of County Commissioners October 6, 1987

### **I. POLICY STATEMENT**

To further its goal of Equal Opportunity in employment for all employees and prospective employees, and in the provision of all services, without regard to race, color, religion or creed, sex, national origin or ancestry, age, marital status, veteran status, or physical or mental handicap (unrelated in nature and extent so as to reasonably preclude the ability to receive benefits from services or perform a job), (hereinafter referred to as protected groups)<sup>1</sup> the Board of County Commissioners of Frederick County, Maryland (hereinafter referred to as the "County") states as its policy the following concerning these subjects under its jurisdiction:

- A. No person shall be discriminated against on the basis of race, color, religion or creed, sex, national origin or ancestry, age, marital status, veteran status, or physical or mental handicap in accordance with applicable local, State, and Federal law.
- B. It will be the policy of the County to recruit, hire, train, evaluate, and promote persons in all job titles without regard to race, color, religion or creed, sex, national origin or ancestry, age, marital status, veteran status, or physical or mental handicap, except where any of these characteristics are a bona fide occupational qualification.
- C. The principle of Equal Employment Opportunity will always be an underlying basis for employment decisions.
- D. All personnel actions and employment services including, but not limited to, compensation, benefits, transfers, performance evaluations, layoffs, return from layoff, training programs, tuition assistance, and social and recreational programs will be made available to, provided, and administered without regard to race, color, religion or creed, sex, national origin or ancestry, age, marital status, veteran status, or physical or mental handicap.
- E. All services will be publicized, made available to, and provided without regard to race, color, religion or creed, sex, national origin or ancestry, age, marital status, veteran status, or physical or mental handicap.

The Board of County Commissioners has the ultimate responsibility for achievement of Equal Employment Opportunity in the County. The Director of Human Resources will manage the Plan. The Division Directors/Department Heads and Agency Directors shall implement the Plan and will be responsible to insure that all services are provided and that all employees and prospective employees are treated in a non-discriminatory manner in accordance with the Plan.

A quarterly reporting and monitoring system will be established to insure the success of the Plan.

The cooperation and support of all employees and County officials is required to assure Equal Employment Opportunity in all County facilities and assuring the non-discriminatory provision of services.

A complete text of the AA plan may be obtained from the Human Resources Division.

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Hereinafter used to designate and define those groups who are protected under applicable law from discrimination due to race, color, religion or creed, sex, national origin or ancestry, age, marital status, veteran status, or physical or mental handicap.

## **POLICY – ANTI HARASSMENT**

Frederick County Government is committed to creating a workplace free from harassment. It is a violation of this policy for a County employee, Supervisor, Department Head, Division Director, or Appointed/Elected official to harass another employee on the basis of age, race, color, religion, national origin, physical or mental disability, or marital status. Harassment will not be tolerated.

All complaints will be investigated in an objective, confidential, and timely manner. If an investigation confirms that harassment has occurred, the County will promptly take corrective action. Disciplinary action up to and including discharge may be imposed.

# **POLICY - SEXUAL HARASSMENT**

(As adopted by the Board of County Commissioners February 25, 2003)

Frederick County Government is committed to creating a workplace free from sexual harassment of any form. It is a violation of this policy for any County employee, Supervisor, Department Head, Division Director or Appointed/Elected official to harass an employee through conduct or communications of a sexual nature as defined below.

## **I. Definition of Sexual Harassment**

Unwelcome sexual advances, requests for sexual favors and other inappropriate oral, written, physical conduct, or material of a sexual nature by County employees, Supervisors, Department Heads, Division Directors or Appointed/Elected officials, when:

- submission to such conduct is either explicitly or implicitly a term or condition of employment.
- submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual.
- such conduct or material that has the purpose or effect of substantially interfering with the individual's employment performance or creates an intimidating, hostile or offensive employment environment.

## **II. Terms**

Sexual harassment, as defined above, may include but is not limited to the following:

- Verbal harassment or abuse
- Pressure for sexual activity
  - Unwelcome, unwanted, unsolicited propositions
  - Demands for sexual advances and explicit sexual proposals
- Repeated communications to a person, with sexual or demeaning implications
  - Obscene or suggestive remarks, gestures, or jokes of a sexual nature, or about gender specific traits
- Unwelcome touching
  - Unwelcome and intentional physical behavior such as kissing, hugging, pinching, or brushing up against another individual
- ~~Sending or displaying sexually explicit or suggestive material~~
  - Displaying or circulating photographs or other materials and objects that are sexually explicit or suggestive
  - Sending or viewing jokes, pictures, or other information by email or the Internet that is sexually explicit or suggestive

## **III. Procedures**

### **A. Reporting Sexual Harassment**

Complaints are to be reported immediately to any of the following at the employee's option: Supervisor, Department Head, Division Director, or any member of the Human Resources staff.

In the event the complaint involves a Division Director or appointed or elected official, the complaint may be made directly to the Human Resource Director, Assistant Human Resource Director, or the County Manager.

### **B. Investigating Complaints**

All complaints will be investigated in an objective, confidential, and timely manner.

#### **IV. Corrective Action**

If an investigation confirms that harassment has occurred, the County will promptly take corrective action. Disciplinary action up to and including discharge may be imposed.

#### **V. Confidentiality and Retaliation**

The confidentiality rights of both the complainant and the accused will be respected consistent with the County's legal obligations, and with the necessity to investigate allegations of misconduct and take corrective action when this conduct has occurred.

Retaliation of any kind against anyone who is involved in the investigation of or in the making an allegation of sexual harassment is prohibited and may result in disciplinary action against the retaliator.

#### **VI. False or Malicious Reports**

Disciplinary action also may be imposed if the County determines that a false or malicious complaint was made under this policy.

## ETHICS

There is an Ethics Ordinance in Frederick County, contained in Chapter 1-7.1 of the Frederick County Code, which covers all County employees and officials.

The Ordinance prohibits County employees and officials from engaging in acts that would amount to a conflict of interest under the Ordinance. The conflict of interest provisions preclude employees and officials from the following: (1) acting on behalf of the County in any matter that would, to their knowledge, have a direct financial impact, as distinguished from the public generally, on their spouse, parent, parent-in-law, child, brother, sister, or a business entity with which any of the aforesaid are affiliated, (2) holding or acquiring an interest in a business that has or is negotiating a contract of \$1,000 or more with the county or is regulated by their agency, (3) being employed by a business entity that has or is negotiating a contract of more than \$1,000 with the County or is regulated by their agency, (4) holding any outside employment that would impair their impartiality or independence of judgment, (5) representing any party, for a contingent fee, before any County body, (6) soliciting or accepting any gifts from any person who has or is negotiating a contract with the County or is regulated by their agency, with certain exceptions, and (7) intentionally using the prestige of their office or privileged information acquired in their official County position for their own private gain or that of another.

The Ordinance also prohibits former employees and officials, within one year following termination of their County employment, from acting as a compensated representative of another in dealing with the County in connection with any specific matter in which the official or employee participated substantially as a County employee. The Ordinance also requires designated County employees and officials to file financial disclosure statements within thirty days of their initial employment and on an annual basis. These statements must include disclosure of certain gifts received from persons who have contracts with the County or are regulated by their agency. Finally, the Ordinance requires lobbyists who intend to influence a person in the performance of that person's official duties to register.

There is a three-member Frederick County Ethics Commission, which administers the Ordinance and renders opinions concerning its provisions. The Ethics Commission has the authority to grant exemptions under certain circumstances. Violation of the Ordinance is a misdemeanor and, upon conviction, the person is subject to a fine of up to \$1,000 or six months in prison, or both.

Copies of the Ordinance are available on the Ethics Commission's website at [www.frederick.md.us/Ethics/Ordinance.pdf](http://www.frederick.md.us/Ethics/Ordinance.pdf).